

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE

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<http://www.house.gov/science/welcome.htm>

June 13, 2003

Harold W. Gehman (USN, ret.)  
Chairman  
Columbia Accident Investigation Board  
2900 S. Quincy Street; Suite 800  
Arlington, VA 22206

Dear Chairman Gehman:

Thank you for your letter addressing access to documents and witness statements that you obtained as part of your investigation. As you indicated in your letter, the Committee has legislative and oversight responsibilities regarding the operation of NASA and the loss of Space Shuttle Columbia. These responsibilities are rooted in the Constitutional grant of power to Congress, and were exercised seventeen years ago in our oversight of the Space Shuttle Challenger accident.

To facilitate the Columbia Accident Investigation Board's ("CAIB") investigation and ensure the confidentiality of this material, the Committee will honor your request to restrict access to unredacted witness statements that you obtained as part of your investigation to designated Committee Members and designated staffers. The Committee expects full and timely access to these materials. This one-time agreement does not limit the Committee's rights in any future disputes over access to information, nor does it limit the Committee's usual investigative prerogatives, including the right to subpoena witnesses, documents, or other material.

There should be no confusion over the Committee's right to all information in the CAIB's possession. Neither the history of military investigations, various Freedom of Information Act exemptions, nor case law holdings regarding civil privilege provide any grounds for denying Congress information it requests, since none of the aforementioned categories operate against the Congress. The only judicially recognized method to declare documents or testimony beyond the reach of Congress in a matter such as this is the successful assertion of Executive privilege, and case law on Executive privilege strongly suggests that the narrow grounds upon which that privilege may be asserted are absent in this matter.

June 13, 2003

Based on this understanding, the Committee agrees to honor the following confidentiality policy:

The entire Columbia Accident Investigation Board (CAIB) database files, with the exception of statements by witnesses to whom the CAIB has extended assurances of confidentiality and privilege, are available without restriction to all Committee Members and properly cleared staff of the House Committee on Science or its Members. At the written request of the Chairman or Ranking Minority Member of the House Committee on Science, the CAIB will provide the Chairman or Ranking Minority Member full access to all unredacted confidential witness statements. The Committee Chairman or Ranking Minority Member may grant access to additional Members of the Committee. Further, the Committee Chairman and Ranking Minority Member may each designate up to four Committee professional staff members, to include the majority and minority Committee staff directors, to have full and repeated access to this material. The CAIB agrees to deliver for review to the Chairman, Ranking Minority Member, or any designated Committee Member, upon their request, a printed copy of any confidential witness statement. Such copy will be hand carried to the Committee Member by a CAIB Board member or representative, who will remain with the document until the review is completed, and then return the document to the CAIB. All other printed copies of confidential witness statements will remain at the CAIB facility. No recordings of confidential witness statements will be made. There will be no public release of any part of a confidential witness statement that would reveal the witness' identity. While reviewing the material, Committee Members and professional staff members may make hand-written notes without limitation, while acknowledging that such notes taken are not releasable to persons not authorized under this agreement. Review of documents at the CAIB facility will be in accordance with procedures established by the CAIB. This agreement neither constitutes a waiver of the inherent investigative or legislative prerogatives of the Committee or its Members, nor does it waive the Board's continuing obligation to protect its privileged witness statements from public release.

This letter serves as our request to gain access to these materials. We look forward to working with you to develop the above-referenced logistical procedures.

Thank you for your help in this matter. We look forward to a continuation of the excellent cooperative relationship between the Board and the Committee.

Sincerely,



Sherwood Boehlert  
Chairman



Ralph M. Hall  
Ranking Democratic Member